

SEG/RI

90312

OCT 10 1979

ORIGINAL

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of

L.W. POTTER TRUCKING COMPANY

Application No. 59034
(Filed July 30, 1979)

for a certificate of public convenience and necessity authorizing operations as a petroleum irregular route carrier.

O P I N I O N

Applicant L. W. Potter Trucking Company, a California corporation, operates pursuant to a petroleum contract carrier permit and a radial highway common carrier permit issued to it under File No. T-60400. The petroleum permit authorizes the transportation of petroleum products in tank trucks and tank trailers between all points in the State of California. The radial permit authorizes the transportation of general commodities between all points in the State of California. Applications have been filed to convert said permit to a highway common carrier certificate and a highway contract carrier permit pursuant to Section 1063.5 of the Public Utilities Code.

Applicant has applied in this proceeding for a certificate of public convenience and necessity as a petroleum irregular route carrier, as defined in Section 214 of the Public Utilities Code, authorizing transportation between all points and places in the State of California.

According to the application, the proposed transportation will be performed daily, and the time in transit within the area sought to be served will be both same day and overnight, depending upon the time of day when requests for applicant's services are received. Rates to be assessed for the proposed transportation will

be generally on the same level as those currently set forth in the Commission Minimum Rate Tariff 6-B. Accordingly, applicant will become a participant in the rate tariffs published by the Western Motor Tariff Bureau, Inc., for the transportation of petroleum and petroleum products in bulk.

Applicant's balance sheet dated December 31, 1978, attached to the application as Exhibit C, indicates a net worth of \$465,573. Its statement of income and expense for 1978 shows a net income after taxes of \$109,146. Based on these documented figures, it would appear that the applicant has the financial ability to perform the proposed operation as a certificated carrier.

Exhibit D to the application shows that the applicant possesses a substantial fleet of tank truck and tank trailer equipment suitable for the transportation of bulk petroleum and petroleum products. Should additional units of equipment be required to provide the proposed service applicant states that it is willing and able to provide them.

In justification for the granting of the certificated authority sought, applicant alleges that:

- (a) Applicant or its predecessor has been engaged in the transportation of petroleum and petroleum products in California since 1946.
- (b) Applicant has determined that it should apply and by this application seeks a more appropriate authority for its present operation that will permit it to experience an orderly growth in the future.
- (c) The transportation business has grown and, thus, the number of customers served has increased significantly. The frequency and regularity of movements justify the change from a contract to a common carrier type of operation.

A copy of the application was served upon the California Trucking Association and all common carriers with whom the proposed service is likely to compete. Notice of the filing of the application appeared in the Commission's Daily Calendar of August 1, 1979. No protests to the application have been received.

After consideration the Commission finds that:

1. Applicant is conducting for-hire petroleum trucking operations under a statewide petroleum contract carrier permit issued by this Commission.

2. Based on the evidence presented herein, applicant has demonstrated its financial and operational ability to perform the proposed transportation service.

3. Public convenience and necessity require that the applicant be authorized to engage in operation as a petroleum irregular route carrier in intrastate commerce as proposed in the application.

4. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

On the basis of the foregoing findings, the Commission concludes that the subject application should be granted as set forth in the ensuing order. A public hearing is not necessary.

Inasmuch as there is an inherent potential for discrimination where one carrier holds both contract carrier and common carrier authority, the order which follows will be effective when the applicant has divested itself of the petroleum contract carrier permit issued to it under File T-60460.

Applicant is placed on notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as consideration for the grant of such rights. Aside from their

purely permissive aspect, such rights extend to the holder a full or partial monopoly of a class of business. This monopoly feature may be cancelled at any time by the State which is not in any respect limited as to the number of rights which may be given.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to L.W. Potter Trucking Company, a California corporation, authorizing it to operate as a petroleum irregular route carrier, as defined in Section 214 of the Public Utilities Code between all points in the State of California as set forth in Appendix A of this decision.

2. In providing service pursuant to the authority granted by this order, applicant shall comply with the following service regulations. Failure to do so may result in cancellation of the authority.

- (a) Within thirty days after the effective date of this order, applicant shall file a written acceptance of the certificate granted. Applicant is placed on notice that if it accepts the certificate it will be required, among other things to comply with the safety rules administered by the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-Series.
- (b) Within one hundred twenty days after the effective date of this order, applicant shall establish the authorized service and file tariffs, in triplicate, in the Commission's office.
- (c) The tariff filings shall be made effective not earlier than thirty days after the effective date of this order on not less than thirty days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the establishment of the authorized service.

- (d) The tariff filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 80-Series.
- (e) Applicant shall maintain its accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before April 30 of each year, an annual report of its operations in such form, content and number of copies as the Commission, from time to time, shall prescribe.
- (f) Applicant shall comply with the requirements of the Commission's General Order No. 80-Series for the transportation of collect on delivery shipments. If applicant elects not to transport collect on delivery shipments, it shall make the appropriate tariff filings as required by the General Order.

This order shall become effective when L. W. Potter Trucking Company, in addition to all other requirements set forth in the foregoing order, has divested itself of the petroleum contract carrier permit issued to it in File T-60460.

Dated Oct 10 1979, at San Francisco, California.

John E. Boyia
President
Robert D. Cavallo
Samuel M. Jensen
Commissioners

Commissioner Claire T. Dedrick, being necessarily absent, did not participate in the disposition of this proceeding.

L. W. Potter Trucking Company, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to operate as a petroleum irregular route carrier, as defined in Section 214 of the Public Utilities Code, for the transportation of petroleum and petroleum products, in bulk, in tank trucks or tank trailers, between all points in the State of California, subject to the following restriction:

RESTRICTION:

Transportation of waste material under this certificate is subject to obtaining and maintaining a valid registration certificate as a hauler of liquid waste from the State Water Resources Control Board.

END OF APPENDIX A

Issued by California Public Utilities Commission.

Decision 90912, Application 59034.